

**DURHAM, NORTH CAROLINA
MONDAY, APRIL 19, 2004
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read the following proclamations designating April 24, 2004 as Earth Day; April 17-30, 2004 as Litter Sweep Week; April 19-25, 2004 as Holocaust Memorial Week [Mary Ann Roberts an Holocaust survivor and Rabbi John Friedman made comments].

On behalf of the Mayor's Committee for Persons with Disabilities, former Council Member Angela Langley announced upcoming events planned for Disabilities Awareness Week [May 3-7, 2004].

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Relative to the expense allowance for Mayor Bell, City Manager Conner noted Budget Director Julie Brenman will make a presentation on how the City is able to transfer funds within the department and from one line item to another. She noted there was nothing illegal about the \$4,000 transfer in the Mayor's budget and no policy was violated. Also, she asked that there be a request to authorize the additional expenditure of \$750 for the Mayor to take a trip to Washington, DC as part of the City's lobbying efforts.

There were no priority items from the City Attorney.

City Clerk Gray provided Council with the following memo concerning the Mayor's Expense Allowance and requested that this item be added to the agenda:

MEMO

To: Mayor and Members of the City Council

From: D. Ann Gray, CMC

Date: April 19, 2004

April 19, 2004

Subject: Expense Allowance

The Mayor has expressed an interest in attending the upcoming National Black Conference of Mayors Meeting and the U. S. Conference of Mayors Annual Meeting.

To accomplish this, I am requesting that an item be added to the agenda for Council to approve and ratify the appropriation transfer dated March 3, 2004 in the amount of \$4,000 to increase the expense allowance for the Mayor from \$4,520 to \$8,520.

The purpose of this increase is to allow the Mayor to attend the National Black Conference of Mayors Meeting (April 28 – May 1, 2004) and the U. S. Conference of Mayors Annual Meeting (June 25-29, 2004) on behalf of and as a representative of the City.

Budget Director Julie Brenman provided Council with a handout and gave an overview of the City's policy relating to appropriation transfers, the state law relating to the budget ordinance and amendments to the budget ordinance.

Mayor Bell explained why he requested additional funds to attend the U. S. Conference of Mayors and the National Black Conference of Mayors Meetings. He noted his involvement with these organizations affords the City an opportunity to receive scholarships, grants, etc.; stated these transfers are an appropriate expenditure and urged Council to support his travel to those conferences.

Council Member Stith made comments on doing the transfer within the existing Council travel expense allowance budget.

City Clerk Gray noted there should be over \$4,000 that's left between Council Members Best and Stith in their expense allowance.

Not knowing the travel plans for other Council Members, City Manager Conner noted staff chose to transfer funds out of the savings from the election.

Council Member Best stated the Mayor could use funds from his expense allowance.

Council held discussion on the source of funds.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to increase the expense allowance for the Mayor from \$4,520 to \$9,270 was approved at 7:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

April 19, 2004

Council Member Clement invited the public to attend the Education Summit on April 21, 2004 at the Museum of Life and Science. Also, he thanked the Parks & Recreation Director Darrell Crittendon and staff for opening two family resource centers at McDougald Terrace and W. D. Hill; thanked Human Relations Director Yvonne Pena, staff and Human Relations Commission for the Fair Housing event. Finally, he commented on the forum he attended at Hillside High School commemorating the 50th Anniversary of Brown vs. Board of Education and announced that there will be another forum sponsored by the Human Relations Commission on May 16, 2004 at Durham School of the Arts.

Council Member Brown announced that former City Manager Lamont Ewell has been appointed City Manager of San Diego, California. Relative to Consent Agenda Item #39 [607 Canal Street (Marlynda Bodison)], Council Member Brown read a statement and requested a progress report on the investigation at the April 22, 2004 City Council Work Session from Audit Services on this matter.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items # 14 [License and Privilege Tax Ordinance], 17 [Contract Amendment for Professional Services for the Re-bidding of Facilities for the USA Olympic Baseball Team], 18 [Modification of Loan Repayment - Housing Authority d/b/a Edgemont Elms Limited Partnership (Development Ventures, Inc.)], 24 [Contract - Mowing and Litter and Debris Removal] and 26 [Contract Amendment - Fayetteville Road Widening] were pulled from the Consent Agenda.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: TRANSMITTAL OF AUDIT SERVICES OVERSIGHT COMMITTEE (ASOC) REPORTS, APPROVED AT THEIR MARCH 22, 2004 MEETING

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive and accept the Audit Services Oversight Committee (ASOC) Reports approved at their March 22, 2004 meeting was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

- Sensitive Equipment Performance Audit (March 2004)
- Cash Collections Compliance Audit (February 2004)
- Review of the City of Durham's Information Technology Disaster Recovery Plan

April 19, 2004

SUBJECT: CITY COUNCIL MINUTES – CITY CLERK’S OFFICE

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve minutes for the March 15, 2004 Regular and Special City Council Meetings was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM DESIGN REVIEW TEAM – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Design Review Team to represent the category of Resident with a term expiring January 31, 2006 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
General Engineering & Environmental of N.C., Inc	Engineering & Environmental assessment of the City/County Transfer Station Supplement #1, Amendment#1 to Master	Gen Svcs	\$ 23,462.00
Wesley Jones	Softball Official	Parks	\$ 2,000.00
Samuel Brubauer	Soccer Official	Parks	\$ 1,000.00
Emmanuel Love	Softball Official	Parks	\$ 1,800.00
Allen Clayton, Sr.	Softball Official	Parks	\$ 2,800.00
Chicken Hut	Caterer for Durham Senior Games Closing Ceremony	Parks	\$ 650.00
Eric Taylor	Baseball Umpire	Parks	\$ 1,200.00
Elvin Fields	Jujitsu/Judo Instructor	Parks	\$ 1,320.00
Ricky Daye	Softball Official	Parks	\$ 2,800.00

April 19, 2004

Kenneth Michael Alston	Softball Official	Parks	\$ 2,000.00
Robert Wynne	Softball Official	Parks	\$ 2,800.00
Timothy Pittman	Softball Official	Parks	\$ 2,400.00
Time Warner Cable Adcast	Citywide advertising	Pub Svc	\$ 25,000.00
Michael Lemay	Security & Traffic Control	S.Waste	\$ 160.00
Andre Hinton	Security & Traffic Control	S.Waste	\$ 320.00
Harcum Terence	Security & Traffic Control	S.Waste	\$ 320.00
Phillip Harris	Security & Traffic Control	S.Waste	\$ 320.00
Elliott Hoskins	Security & Traffic Control	S.Waste	\$ 160.00
Milton Tabron	Baseball Umpire	Parks	\$ 1,200.00
Jenco Cleaning Services	Cleaning service	Housing	\$ 5,000.00
Complete Lawn Care	Amendment to existing contract	Housing	\$ 4,000.00
K&C Enterprises	Cleaning service	Housing	\$ 4,855.00
K&C Enterprises	Amendment to existing contract	Housing	\$ 4,000.00
Durham Bulls Baseball, Inc.	5 month lease agreement former DATA Bus Parking Lot \$4,500 in revenue to the City	Gen Svcs	na
Women in Action, Inc.	Extension of time no increase in contract	Housing	na
Miguel Chirinos	Host "Cita Cominical" Broadcast WNCU 90.7FM until replaced with permanent hire	Hum Rel	\$ 520.00
Soleir Cordon-Schaefer	Host "Cita Cominical" Broadcast WNCU 90.7FM until replaced with permanent hire	Hum Rel	\$ 520.00
Erica Rothman, MSW Video Productions	Production of video/documentary Brown vs. Board of Education	Hum Rel	\$ 3,285.00
Durham School of the Arts	Rental of auditorium to conduct celebration of Brown vs. Board of Education	Hum Rel	\$ 292.00
Community Reinvestment Association of NC	Theme posters, outreach videos-participation in State-wide Fair Housing initiative	Hum Rel	\$ 3,000.00

Note: The Durham Bulls Baseball, Inc. Contract was approved at the 4/8/04 Work Session with a vote of 7/0.

**SUBJECT: PIGGYBACK PURCHASE – DIGITAL IN-CAR VIDEO SYSTEMS
- KUSTOM SIGNALS, INC.**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with Kustom Signals, Inc., in the amount of \$69,986, for providing the City with fourteen Digital In-Car Video Systems; and

April 19, 2004

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS – ESTIMATED ANNUAL REQUIREMENTS FOR ASPHALTIC CONCRETE - CAROLINA SUNROCK CORPORATION

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from Carolina Sunrock Corporation in the amount of \$163,240, for providing the City with its Estimated Annual Requirements for Asphaltic Concrete; and

To authorize the City Manager to enter into a contract with Carolina Sunrock Corporation in the amount of \$163,240, for providing the City with its Estimated Annual Requirements for Asphaltic Concrete; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BID REPORT – FEBRUARY 2004

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of February 2004 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

March 26, 2004

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

April 19, 2004

SUBJECT: Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **February 2004**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Computer Monitors

Purpose of Bid: To purchase 429 17" computer monitors

Comments: The bids from Tiger Direct, Gateway Corporation, More Direct, and Best Buy were considered non-responsive because their bids were incomplete. Each bidder failed to include the required SDBE TT program questionnaire.

Custom Computer Specialists, Inc., is the lowest responsive bidder.

Opened: January 7, 2004

Bidders:	Tiger Direct, Inc. (non-responsive) Raleigh, NC	\$44,242.77
	Custom Computer Specialists, Inc. Happauge, NY	* \$45,508.32
	Compu-Corp Menifee, CA	\$46,310.55
	JPK Micro Supply, Inc. City of Industry, CA	\$47,190.00
	Able Computer Systems Kirkland, WA	\$48,048.00
	Custom Fit, Inc. Chantilly, VA	\$48,048.00
	Infoserve Technologies Glendale, NY	\$49,335.00
	Technology Resource Center West Dundee, IL	\$53,510.50
	MPC Nampa, ID	\$54,912.00
	Gateway Corporation (non-responsive) North Sioux City, SD	\$55,770.00
	Multiwave Walnut, CA	\$56,199.00
	Shea-PC Eagan, MN	\$60,060.00
	CDW-G	\$60,918.00

April 19, 2004

Vernon Hills, IL	
Perlmutter Purchasing Power	\$74,646.00
San Diego, CA	
Dell Corporation	\$75,911.55
Round Rock, TX	
GovConnection	\$78,335.40
Mirrimack, NH	
CompUSA	\$79,510.86
Dallas, TX	
MoreDirect (non-responsive)	\$79,558.05
Boca Raton, FL	
Technology Associates	\$80,351.70
Durham, NC	
Best Buy Corporation (non-responsive)	\$85,392.45
Richfield, MN	

*Awarded based on: _____ Low Bid X Other (See Comments)

The Department of Equal Opportunity/Equity Assurance reviewed the bid submitted by Custom Computer Specialist of Hauppauge, NY and have determined that they are in compliance with the Ordinance to Promote Equal Opportunities in City Contracting.

There were no SDBE firms to provide this product.

The workforce statistics for Custom Computer Specialist are as follows:

Location Performing on Contract
Hauppauge, NY

Total Workforce	262	100%
Total Females	59	23%
Total Males	203	77%
Black Males	34	13%
White Males	144	55%
Other Males	23	9%
Black Females	3	1%
White Females	52	20%
Other Females	4	2%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: Thermal Imaging Camera

Purpose of Bid: To provide the Fire Department with a Thermal Imaging Camera

April 19, 2004

Comments:

Opened: January 30, 2004

Bidders: Newton's Fire & Safety * \$12,500.00
Sweptonsville, NC
Abatix Corporation \$12,968.40
Phoenix, AZ

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	10		# Black Males	0	0%
Total # Females	1	10%	# White Males	9	90%
Total # Males	9	90%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	10%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: HazMat Chemical Identifier

Purpose of Bid: To provide the Fire Department with a HazMat Chemical Identifier.

Comments: Sensir Technologies is the only know source for this equipment.

Opened: January 30, 2004

Bidders: Sensir Technologies * \$43,240.00
Danbury, CT

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	55		# Black Males	4	7%
Total # Females	9	16%	# White Males	42	76%
Total # Males	46	84%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	9	16%

April 19, 2004

# Other Females	0	0%
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The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Used Motorola Communications Systems Analyzer

Purpose of Bid: To provide the Communications Maintenance Division with a Motorola Communications Systems Analyzer.

Comments: Bids were solicited from several bidders but only one response was received.

Opened: February 6, 2004

Bidders: Smart Communications * \$10,000.00
Harrisonburg, VA

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	6		# Black Males	0	0%
Total # Females	3	50%	# White Males	3	0%
Total # Males	3	50%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	3	3%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: Complete—Ready Made Traffic Signs

Purpose of Bid: To provide the Traffic Sign Division with complete traffic signs

Comments:

Opened: February 4, 2004

Bidders:	Vulcan, Inc.	* \$11,530.70
	Foley, AL	
	CSA Designs	\$17,043.29
	Garner, NC	

*Awarded based on: X Low Bid Other (See Comments)

April 19, 2004

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	135		# Black Males	25	18%
Total # Females	27	20%	# White Males	80	60%
Total # Males	108	80%	# Other Males	3	2%
			# Black Females	4	3%
			# White Females	22	16%
			# Other Females	1	1%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Estimated Annual Requirements for Ammonium Hydroxide

Purpose of Bid: To provide Environmental Resources with the annual requirements for Ammonium Hydroxide. This chemical is used in the drinking water process.

Comments: Tanner Industries is considered non-responsive due to not bidding on all items.

Opened: February 6, 2004

Bidders:	Tanner Industries	(non-responsive)	\$21,375.90
	SouthHamptom, PA		
	Brenntag Southeast		*\$32,048.80
	Durham, NC		
	Univar USA		\$33,876.00
	Suffolk, VA		

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	258		# Black Males	84	33%
Total # Females	65	25%	# White Males	105	41%
Total # Males	193	75%	# Other Males	4	1%
			# Black Females	6	2%
			# White Females	58	22%
			# Other Females	1	1%

LOCATION OF PERFORMING CONTRACT
Durham, NC

April 19, 2004

Total Workforce	128		# Black Males	53	41%
Total # Females	37	29%	# White Males	73	57%
Total # Males	92	71%	# Other Males	2	02%
			# Black Females	4	03%
			# White Females	32	25%
			# Other Females	1	01%

The SDBE Data Base was used in the solicitation of bids for this item.

7. Bid: Estimated Annual Requirements for Traffic Glass Spheres

Purpose of Bid: To provide the Transportation/Sign Shop Division with their annual requirements (12 months) for glass spheres, to be ordered only as needed.

Comments: The bid from Potters Industries is considered non-responsive due to bidding on a one time only shipment.

Opened: January 30, 2004

Bidders:	Potters Industries	(non-responsive)	\$11,660.00
	Valley Forge, PA		
	Transafe, Inc.		*\$12,320.00
	Lawrenceville, GA		
	Swarco Industries		\$15,400.00
	Columbia, TN		

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	9		# Black Males	1	10%
Total # Females	5	60%	# White Males	3	20%
Total # Males	4	40%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	5	70%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

8. Bid: Used 2 Drum Roller

Purpose of Bid: To purchase a used 2-drum roller for the Street Maintenance Division.

April 19, 2004

Comments: Bids were solicited from several bidders and only one response was received.

Opened: January 29, 2004

Bidders: Neff Rental * \$17,500.00
Durham, NC

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	1,019		# Black Males	58	6%
Total # Females	122	12%	# White Males	760	75%
Total # Males	897	88%	# Other Males	79	8%
			# Black Females	2	1%
			# White Females	96	9%
			# Other Females	24	2%

The SDBE Data Base was used in the solicitation of bids for this item.

9. Bid: Estimated Annual Requirements for Lubricants

Purpose of Bid: To provide City departments/divisions with their annual usage of lubricants (motor oil, anti-freeze, etc.)

Comments:

Opened: January 29, 2004

Bidders: Warren Oil *\$58,613.73
Dunn, NC
Brenntag Southeast \$63,516.45
Durham, NC

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	147		# Black Males	39	26%
Total # Females	41	27%	# White Males	62	42%
Total # Males	106	73%	# Other Males	5	4%
			# Black Females	5	4%
			# White Females	36	24%

April 19, 2004

Other Females 0 0%

LOCATION OF PERFORMING CONTRACT
Dunn, NC

Total Workforce	91		# Black Males	14	15%
Total # Females	32	35%	# White Males	40	43%
Total # Males	59	64%	# Other Males	5	7%
			# Black Females	2	3%
			# White Females	30	32%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

10. Bid: Estimated Requirements for Recycling Bins

Purpose of Bid: To purchase recycling bins for the Solid Waste/Recycling Division

Comments: The low bid from Busch Systems did not meet the bid specifications.

Opened: January 30, 2004

Bidders:	Busch Systems (does not meet specifications)	\$24,750.00
	Barrie, Ontario	
	Rehrig Pacific	*\$28,250.00
	Lawrenceville, GA	
	SCL A-1 Plastics	\$29,350.00
	Brampton, Ontario	

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	173		# Black Males	17	10%
Total # Females	45	26%	# White Males	56	32%
Total # Males	128	74%	# Other Males	55	32%
			# Black Females	6	03%
			# White Females	11	06%
			# Other Females	28	16%

The SDBE Data Base was used in the solicitation of bids for this item.

April 19, 2004

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: BIDS – BACKHOES - BRIGGS CONSTRUCTION EQUIPMENT, INC.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to accept the bid from Briggs Construction Equipment, Inc., in the amount of \$211,806 for providing the City with three Backhoes; and

To authorize the City Manager to enter into a contract with Briggs Construction Equipment, Inc., in the amount of \$211,806 for providing the City with three Backhoes; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT – BRIGHTLEAF AT THE PARK (D03-336)

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan and preliminary plat for 'Brightleaf at the Park', submitted by Priest Craven & Associates on behalf of Rhein Interests, for 630 single family detached units on a 275.1 acre site zoned PDR 3.99 and F/J-B, located on the south side of Sherron Road and east of Mineral Springs Road, Tax Reference 658-02-005, 655-02-005, 654-01-025, 659-01-004, 659-01-005, 659-01-006, 652-01-001, 660-01-002B, 660-01-003 and PIN 0850-03-30-3502, 0850-03-01-7009, 0850-03-40-5942, 0850-03-02-9321, 0850-03-42-7587, 0759-01-19-0198, 0850-04-61-1440, 0850-03-21-4274, 0850-03-32-3444, City Atlas Page 40, Blocks A-2, A-3, B-2, B-3, C-3, D-3 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – NORTH CAROLINA SPECIALTY HOSPITAL (D03-506)

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan, submitted by Haden Stanziale, on behalf of National Surgical Hospitals, to construct a 49,005 square foot hospital on 4.659 acres, located on the southeast corner of William Penn Plaza and Ben Franklin Boulevard, east of North

April 19, 2004

Roxboro Street, and is zoned GC (D) and F/J-B. Parcel ID 197643, PIN 0833-13-04-8717, City Atlas: Page 18, Section A-4 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – JOHNNY CARINO’S RESTAURANT (D03-674)

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for 'Johnny Carino's Restaurant', submitted by Crowley & Associates on behalf of Best Locations, LLC, for a 234-seat restaurant with 140 parking spaces on a 1.91 acre site zoned MU(D) and F/J-B and to approve the developer's request for payment-in-lieu of construction of a sidewalk along the Fayetteville Road frontage, located at the northeast corner of Fayetteville and Herndon Roads, Tax Reference 525-01-008A and PIN 0718-04-83-8869. City Atlas Page 42, Block D-4 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – TOKYO EXPRESS - D03-716

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan, submitted by DNR Architect Inc., on behalf of David Hien Thanh Cao and Kim Cao, to construct an additional 769 square feet to an existing 1,184 square foot fast food restaurant and landscape buffer reduction to 12.5 feet on .73 acres, located on the southwest corner of Guess Road and Carver Street, and is zoned NC and E-B. PIN 0823-13-02-7526 and 0823-17-02-7418. City Atlas: Page 17, Sections A-3 and A-4 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: STREET ACCEPTANCE - AUTUMN RIDGE, PHASE III AND ORCHARD LAKE, PHASE II

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept certain streets in Autumn Ridge, Phase III and Orchard Lake, Phase II, as listed for maintenance by the City of Durham was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Autumn Ridge – Phase III

1. Carey Place – from the end of PH II construction north to the centerline of Crystal Creek Drive (319’), and

April 19, 2004

2. Corktree Court – from the centerline of Crystal Creek Drive south thru the cul-de-sac (212’), and
3. Crystal Creek Drive – from the end of PH II construction North then west to the end of construction @ STA 14+27.68 (1,268’).

Orchard Lake – Phase II

1. Orchard Oriole Lane – from the end of construction @ STA 18+80 east thru the cul-de-sac (653’).

SUBJECT: DEPARTMENT OF JUSTICE WEAPONS OF MASS DESTRUCTION GRANT - N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept the \$21,739 Department of Justice Grant, No. HS-TE-03-4105, as detailed in the Memorandum of Agreement between the City of Durham and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management; and

To adopt the “City of Durham Grant Project Ordinance for Terrorism Preparedness Equipment in conjunction with the U.S. Department of Justice and N.C. Department of Crime Control and Public Safety, Division of Emergency Management” was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12933

SUBJECT: DURHAM STATION (MULTIMODAL) TRANSPORTATION CENTER – CHANGE ORDER FOR PROFESSIONAL SERVICES - THE FREELON GROUP, PA

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to negotiate and execute professional services change orders on the Durham Station ('multi-modal') Transportation Center, with The Freelon Group, PA, provided the cost of all change orders does not to exceed \$70,000; and

The total cost does not exceed the applicable project ordinance; and

April 19, 2004

To adopt a “Resolution Exempting the Durham Station ('multi-modal') Transportation Center from G.S.143-64.31” was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9099

SUBJECT: DURHAM AFTER SCHOOL PROGRAM STRATEGY FY 2004

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt a Grant Project Ordinance for FY 2003-2004, Governor's Crime Commission Title V Grant for the Durham After-School Project was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12934

SUBJECT: MAJOR SITE PLAN – CVS PHARMACY STORE - D03-473 – DEVELOPMENT SOLUTIONS/KIMLEY-HORN ASSOCIATES

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for a proposed one-story, 10,880 square foot, 33.6 foot high Pharmacy with a drive through window, with 54 motor vehicle parking spaces and approve a buffer reduction of 12.5 feet for the western property line, on a 1.60 acre site, zoned O&I-2 (D) and NC(D), F/J-B, located at the southwest corner of North Roxboro Road and East Carver Street was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN –RENAISSANCE VILLAGE, PHASE I - D03-783 – THE JOHN R. MCADAMS COMPANY – SOUTHPOINT INVESTORS, LLC – SOUTHPOINT DEVELOPERS, LLC AND MIDLAND 751 DEVELOPMENT COMPANY, LLC

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for a portion of a proposed 490,00 square foot, mixed use development with hotel, office and retail use, with 1,331 motor vehicle parking spaces, on a 48.80 acre site, zoned MU (D) MTC and F/J-B, located at the northeast corner of NC 751 and Renaissance Parkway was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

April 19, 2004

SUBJECT: ACCEPTANCE OF A \$10,000 GRANT FROM PURDUE PHARMA TECHNOLOGIES, INC. TO CONTINUE INVESTIGATIONS TO PURSUE PRESCRIPTION DRUG DIVERSION THROUGHOUT THE DURHAM AREA

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt the proposed Grant Project Ordinance; and

To authorize the City Manager to accept this grant and allow the Durham Police Department to use the Purdue Pharma Technologies, Inc. Grant in the amount of \$10,000 to further drug investigations in our community was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12935

SUBJECT: CONTRACT SW-15 FOREST HILLS SIDEWALKS AND WHEELCHAIR RAMPS - WHITE OAK CONSTRUCTION CORPORATION

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with White Oak Construction Corporation for Contract SW-15 Forest Hills Sidewalks and Wheelchair Ramps in the amount of \$397,341; and

To establish a contingency fund for Contract SW-15 of \$59,601; and

To authorize the City Manager to execute change orders for Contract SW-15 provided that the cost of all change orders does not exceed \$59,601 and the total project cost does not exceed \$456,942 was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PASSENGER VEHICLE FOR HIRE TEMPORARY ORDINANCE AMENDMENT – DURHAM CITY CODE SECTION 22-32(G) – OPERATING PERMITS

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt an ordinance temporarily amending to the Passenger Vehicle for Hire Ordinance was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12936

April 19, 2004

SUBJECT: DURHAM CABLE TV ADVISORY BOARD)

Rev. James E. Vaughn made comments on this item urging Council to support this concept. Also, he noted we would like to get reimbursed for the efforts being put forth.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the Durham PEG Cable TV Development Advisory was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DEVONSHIRE SUBDIVISION

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Tom Hurysz on water and sewer rates in the city limits and outside the city limits of Durham and to refer this back to the administration was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: NED KENNINGTON

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Ned Kennington regarding standard issues for 25 mph speed humps in their neighborhood and to refer this item back to the administration was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: ISAAC WOODS

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Isaac Woods on the Creekside sewer line system for black homeowners and refer this item back to the administration was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CITY-OWNED SINGLE FAMILY RESIDENTIAL PROPERTIES

April 19, 2004

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the disposition of surplus property was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 607 CANAL STREET (MARLYNDA W. BODISON)

To receive an update from the Administration on the status of the loan and the rehabilitation request on 607 Canal Street; and

To rescind authority of the City Manager to restructure the loan and reinstitute foreclosure of the property located at 607 Canal Street; and

To proceed with an investigation conducted by the Internal Audit Department on the process of this matter from inception to current.

Note: This item was approved at the April 8, 2004 Work Session with a vote of 7/0.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: PROPOSED AMENDMENTS TO THE LICENSE AND PRIVILEGE TAX ORDINANCE

To adopt an ordinance entitled “An Ordinance Rewriting the Provisions of Article VI, Appendix A of the Durham City Code Pertaining to License and Privilege Taxes.”

Several Council Members expressed concern with the fee increase.

Council held discussion on whether an assessment was completed, discussion was held with the Chamber and the business community; the economy; purpose of fee increase and cost of administering tax.

Mayor Bell noted that he would like to deal with this issue during the budget. Also, he requested that this item be referred to the Work Session to receive additional information.

MOTION by Council Member Clement seconded by Council Member Stith to refer this item to the April 22, 2004 City Council Work Session was approved at 8:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACT AMENDMENT FOR PROFESSIONAL SERVICES REQUIRED FOR THE RE-BIDDING OF FACILITIES FOR THE USA OLYMPIC BASEBALL TEAM, AT THE DURHAM BULLS

April 19, 2004

ATHLETIC PARK, 403 BLACKWELL STREET – JOSEPH YONGUE ARCHITECT

Council Member Best expressed a concern about this item. He noted staff should revisit policies and procedures for contracting.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to amend the Professional Services contract for Joseph Yongue Architect in the amount of \$10,000, to pay for re-bidding expenses, for the construction of the USA Olympic Baseball Offices and Team Club House at the Durham Bulls Athletic Park, 403 Blackwell Street; and

To adopt a “Resolution Exempting the USA Olympic Baseball Offices and Team Club House at the Durham Bulls Athletic Park, from G.S.143-64.31” was approved at 8:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Stith. Noes: Council Member Best. Absent: None.

Resolution #9100

SUBJECT: MODIFICATION OF THE LOAN REPAYMENT TERMS FOR THE HOUSING AUTHORITY OF THE CITY OF DURHAM, D/B/A EDMONT ELMS LIMITED PARTNERSHIP (DEVELOPMENT VENTURES, INC., GENERAL PARTNER)

To approve the extension of the loan repayment term from July 1, 2004 to January 1, 2020, retaining the current monthly loan payment amount of \$3,967 plus servicing fee for the Housing Authority of the City of Durham, Edgemont Elms Limited Partnership loan;

To authorize the City Manager to execute the amended promissory note; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Mayor Bell disclosed that he is the chairman of the Board of Mutual Community Savings Bank and Mechanics and Farmers Bank.

City Attorney Blinder noted it would be appropriate for the Mayor to vote on this item.

Council Member Clement disclosed that he is a shareholder with Mutual Community Savings Bank.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to allow Mayor Bell and Council Member Clement to participate in the discussion

April 19, 2004

concerning this item was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Interim Director of Durham Housing Authority Frank Meachem spoke in support of this item.

Mayor Bell made comments on the loan and noted Council needs a full picture of the financial projections requesting a cash flow statement and income statement starting at year 1 up through 30 for this project before a decision can be made.

Tom Niemann, DHA Board Member, made comments on the information requested by the Mayor.

Council Member Brown requested DHA to address the operations for the project when this item comes back to Council.

Council Member Clement requested DHA to bring back a statement on the impact these configurations will have on the residents of public housing.

Mayor Bell requested that this item be referred to the May 6, 2004 City Council Work Session.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to refer this item to the May 6, 2004 City Council Work Session was approved at 8:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT CONTRACT M.04.1 RIGHT OF WAY TRACTOR MOWING AND
LITTER AND DEBRIS REMOVAL**

To authorize the City Manager to execute a contract with Britt Services, Inc. for Contract M.04.1 Right of Way Tractor Mowing and Litter and Debris Removal in the amount of \$1,156,937.55; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Council Member Best made comments on the Dixie Lawn Service contract and the good faith effort.

April 19, 2004

EO/EA Director Debra Giles explained that all construction documents contain and outline questions that determine good faith effort taken from the Equal Business Opportunity Ordinance and why Dixie Lawn Service did not meet the good faith effort.

Jimmy McHenry, of Dixie Lawn Service, noted there was some confusion on the part of the company as far as the good faith effort. He noted he didn't find anyone that was capable of doing the work and if his firm was given another opportunity he could meet the minority goals. Also he commented on the price difference between his company and the next contractor.

Council Member Best spoke in support of Dixie Lawn Service noting the contractor has been doing the work for five years, when needed to subcontract has used minority firms, had good reviews and can do the work for \$80,000 less than the next bidder.

Mayor Pro Tempore Cole-McFadden made comments on the bid package.

Council Member Brown expressed concern with the cost submitted by the next bidder and made comments on re-bidding this item.

Council Member Stith made comments on the process, pre-bid requirement and re-bid cost.

Debra Giles, EO/EA Director, made comments on having another training session in June to re-familiarize some to what the process is and how to adequately complete the SDBE document. She noted the pre-bid participation is optional.

Katie Kalb, Public Works Director, noted the original bidding process took 11 weeks and expressed concern with the high grass.

Council Member Stith spoke in support of extending existing contract and re-bidding this item.

Chris Boyer, of Urban Forestry, informed Council that the Dixie Lawn Service contract ended December 31, 2003.

Jimmy McHenry, of Dixie Lawn Service, noted he would like to extend the contract for one year.

After discussion, City Manager Conner noted a contract for the 30-day extension will come to the May 6, 2004 City Council Work Session.

MOTION by Council Member Stith seconded by Council Member Brown to approve re-bidding this item and extending the contract with Dixie Lawn Service for an additional 30 days was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

April 19, 2004

**SUBJECT: AMENDMENT TO THE CONTRACT FOR ENGINEERING
DESIGN SERVICES FOR THE FAYETTEVILLE ROAD
WIDENING PROJECT WITH KIMLEY HORN AND
ASSOCIATES**

Assistant City Manager Ted Voorhees made comments on this item.

Lee Murphy, of the Public Works Department, noted the Fayetteville Road widening project will be completed by the end of August 2004.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to amend the Engineering Design Services contract with Kimley Horn and Associates for the Fayetteville Road Widening Project by increasing the original contract amount from \$878,392 to \$994,292; and

To authorize the expenditure of \$115,900 from the Fayetteville Road Widening Account was approved at 9:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 2004 LEGISLATIVE PROGRAM – SHORT SESSION

Council Member Stith noted that he would be voting no on the following Charter Amendments: Motor Vehicle Tax and Clarify City's Authority to Adopt Ordinances and Guidelines Regarding Protest Petitions.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to approve the City's legislative program for the 2004 short session of the General Assembly was approved at 9:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

2004 LEGISLATIVE PROGRAM

I. Charter Amendments/Local Bills

1. Motor Vehicle Tax – [Approved – Vote 6/1. Noes: Council Member Stith]
2. Clarify City's Authority to Adopt Ordinances and Guidelines Regarding Protest Petitions. – [Approved - Vote 6/1. Noes: Council Member Stith]
3. Make a Technical Correction to the Authority of the Housing Appeals Board to Hear Appeals in "Weedy Lot" Cases.

April 19, 2004

II. Resolution in Support of Increased Funding to Meet the Resource Needs of the Durham County Courts

Resolution #9101

[GENERAL BUSINESS AGENDA]

SUBJECT: CRIME STOPPERS ENHANCED REWARD PROGRAM

Corporal David Addison, of the Police Department, gave an overview of the Crime Stoppers program.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to receive a presentation on the Crime Stoppers Enhanced Reward Program was approved at 9:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: FY 2004-2005 CONSOLIDATED ACTION PLAN DRAFT PUBLIC HEARING

Vickie Miller, of Housing & Community Development, gave a power point presentation on the FY 2004-05 Consolidated Action Plan Draft highlighting the essential components, CDGB and HOME funds, other federal funds, competitive process, requested activities, ratings process, review team, and technical assistance. [Handout provided]

Mayor Bell opened the public hearing.

Jim Stewart, of 2227 Parkside Drive/representing Clearview Housing Corporation/Woodland Associates, spoke in support of funding to address the maintenance and rehabilitation needs of the Clearview apartment complex.

Jarvis Martin, of 3608 Mossdale Avenue/representing Woodland Associates, urged Council to support funding for the Clearview apartment complex project for rehabilitation.

Diane Wright, of 210 Cherry Grove Street, spoke in support of funding for the Durham Campaign Decent Housing. She urged Council to 1) continue to help elderly, disabled and other homeowners and help volunteer groups repair homes by hiring a staff person to take applications; 2) strengthen housing code enforcement through the City budget by

April 19, 2004

hiring five housing inspectors and two support staff, and 3) fund nonprofits with proven track records (Rebuild Durham, Durham Affordable Housing Coalition, Durham Community Land Trustees and Habitat for Humanity).

Paul Joyner, representing Rebuild Durham, thanked Council for their past support of Rebuild Durham and urged Council to include their proposal in the Consolidated Action Plan draft.

James Pou, representing Rebuild Durham, spoke in support of funding for Rebuild Durham, Durham Affordable Housing Coalition and Woodland Associates.

Mike Shiflett, of Housing Appeals Board, noted he has seen some progress in the Housing Department relative to the collection of fines and penalties of blighted houses, which should be recycled back into the community. He asked for a line by line accounting of what was spent and where for the 1996 Bond referendum and where is the \$10 million that's available going and spoke in support of hiring more housing inspectors.

Melvin Whitley, of 2614 Harvard Avenue, urged Council to support hiring five more housing inspectors and two support staff to address blight and slum housing.

Rich Lee, of the Durham Affordable Housing Coalition, thanked Council for their past support of the Coalition, urged Council to support funding requested and expressed concern that Habitat for Humanity, Rebuild Durham and Durham Community Land Trustees with good track records were not recommended for funding. He recommended that staff place the funding criteria and city priorities up at the front of the decision making process.

Terry Allebaugh, of Housing for New Hope, urged Council to support the proposal submitted by the Campaign for Decent Housing and Housing for New Hope.

Gene Cook, of 603 E. Hammond Street, urged Council to support funding for Habitat for Humanity discussing their track record.

Stan Holt, of Genesis Home, urged Council to support the recommendation of Genesis Home in the Consolidated Action plan to address the issue of flooding.

L. D. Burris, of 1104 Burch Avenue, thanked Council for their past support of the Durham Community Land Trustees' housing and neighborhood development programs, made comments on three non-profit developers of affordable housing homebuying opportunities for low wealth citizens that were not included to receive funding for land acquisition urging Council to find a way to add the funding \$300,000 for the Gattis Street plan.

April 19, 2004

Selina Mack, of Durham Community Land Trustees, spoke in support of funding for the acquisition of land for the proposed Gattis Street development. She noted the subsidy is needed to purchase the property and to renovate housing for lower income buyers.

Lanier Blum, of Durham Community Land Trustees, urged Council to give DCLT an opportunity to purchase the target spots by placing them into the plan. Also, she thanked staff for resolving outstanding issues that were identified by HUD last year.

Evan C. Chavez, of Self-Help, thanked the City for their support given through its 2nd home mortgage program and urged Council to support funding for the Gattis Street project.

Dorcas Bradley, of SWCD Quality of Life Committee, spoke in support of funding for Habitat for Humanity, Durham Community Land Trustees and Self-Help for the Gattis Street project.

Walter Fally, of 1119 Clarendon Street, expressed concern that there are no programs for landowners.

Janice Johnson, of AIDS Community Residence Association, asked Council to support funding for this organization to construct rental housing for HIV/AIDS survivors.

Mike Spears, of 1212 Reynolds Avenue, spoke in support of funding for the Clearview project.

Mayor Bell closed the public hearing.

Mayor Bell disclosed that one of the applicants in the Consolidated Action Plan is UDI/CDC and that he has no involvement with this project under which they're requesting support.

MOTION by Council Member Catotti seconded by Council Member Best to extend the meeting beyond 10:00 p.m. was approved at 10:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Reggie Goodson, of Housing & Community Development, gave an overview of the proposed plan for sale of City owned surplus property.

Mayor Pro Tempore Cole-McFadden made comments on the criteria/process for funding.

Interim Housing Director Constance Stancil outlined criteria for funding and discussed the pre-submittal conference. She briefed Council on why Habitat for Humanity did receive any CDBG funding commenting on the project being outside of the City limits and noted she is looking at other funding that might be available to them in the future. She noted since HUD cleared the finding on April 5 for Durham Community Land

April 19, 2004

Trustees, they can be considered for future applications and are looking at other ways to fund their projects in the future and through the Gattis Street project.

Council Member Brown made comments on the leftover funds from the bond.

City Manager Conner noted staff will be reviewing the availability of funding for the bonds and will be issuing a RFP over the summer/fall to fund bond projects. Also, she noted staff will come back to Council with the proposed CIP list of the projects that have been funded by bond funds, leftover funds and request for new projects.

Council Member Best spoke in support of funding for DCLT since the HUD finding has been cleared.

Selina Mack expressed concern DCLT's application did not pass the initial review stage because of findings and asked Council to consider their application for southwest central Durham housing project for \$300,000.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the FY 2004-2005 Consolidated Action Plan Draft was approved at 10:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SPECIAL USE PERMIT – DURHAM COUNTY EAST BRANCH LIBRARY – GROVE PARK (M03-06) – COUNTY OF DURHAM – SOUTHWEST CORNER OF NCH HIGHWAY 98 AND LICK CREEK LANE (CURRENTLY UNDER CONSTRUCTION)

To hold a quasi-judicial public hearing to consider a Major Special Use Permit for the construction of the Durham County East Branch Library in the PDR 1.6 District; and

To direct the Planning Director to prepare an Order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft Order for approval with staff-recommended conditions will be available at the meeting).

City Clerk D. Ann Gray swore in the following individuals: Frank Duke, Michael Stock, Dan Jewell, Philip Cherry, III, Glen Whisler, Wendell Davis and Zena Howard.

Mayor Bell explained the proceedings for a major special use permit.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

April 19, 2004

Mayor Bell opened the public hearing.

Mayor Bell asked the attorney for the applicant and for opponents or a representative to identify themselves.

Testimony from Staff

Michael Stock, of the City/County Planning Department, requested that the staff report and all attachments and exhibits be entered as a part of the permanent record. He noted in the matter of case M03-06, Coulter Jewell Thames, PA, on behalf of Durham County, proposes the construction of the Durham County East Branch Library. He noted the proposed structure will be 25,000 square feet and one story high and a plat shall be recorded dedicating 5.40 acres as a nitrogen easement area, required to offset nitrogen and impervious surfaces for this site and the neighboring proposed City Fire Station #8 and that parking has been determined adequate by the Development Review Board, which recommended approval of the site plan on February 6, 2004. Mr. Stock noted Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance, that the proposed use is: 1) In harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance; and 3) Will not adversely affect the health or safety of the public. He noted staff will provide a recommendation at the conclusion of testimony for this case.

The Mayor asked if there were questions for staff. There were no questions.

Testimony from Applicants

Dan Jewell, representing Durham County, made comments on the three findings of fact that Council must make. He noted the proposed library will maintain a low profile relative to adjacent uses while offering some important visibility from the highway and will be well buffered. He noted the location of the proposed library will allow residents of eastern Durham County to reduce the travel time to patronize the public library and will contribute to the educational interests of our residents.

Philip Cherry, III, Durham County Library Director, noted there is no public library in eastern Durham in this particular area and this project meets the criteria for site selection.

The Mayor asked if there were questions for the applicant. There were no questions.

No one spoke in opposition to this request.

Staff Recommendation

Michael Stock, of the City/County Planning Department, noted based upon the technical requirements of the Durham Zoning Ordinance, staff recommends approval subject to the

April 19, 2004

following condition: The project shall be completed in accordance with the approved site plan, including any additional corrections and verifications.

Mayor Bell declared the public hearing closed.

MOTION Council Member Clement seconded by Council Member Stith to adopt an order granting, upon certain conditions, a major special use permit for Durham County East Branch Library – Grove Park Case M03-06 was approved at 10:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12937

SUBJECT: MAJOR SITE PLAN – DURHAM COUNTY EAST BRANCH LIBRARY – GROVE PARK (D03-536) – COULTER, JEWELL, THAMES, PA - COUNTY OF DURHAM – SOUTHWESTER CORNER OF NC HIGHWAY 98 AND LICK CREEK LANE (UNDER CONSTRUCTION)

City/County Planning Director Frank Duke made comments on this item.

Mayor Pro Tempore Cole-McFadden made comments on the handicap parking spaces.

MOTION by Council Member Clement seconded by Council Member Stith to approve a Major Site Plan for a proposed one-story, 25,000 square foot, 28 foot high library, with 100 motor vehicle parking spaces, including four handicapped spaces, one van and five bicycle spaces on a 3.9 acre site, zoned PDR 1.6 and F/J-B was approved at 10:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MATTER CASE P03-65 – HIGHLAND PARK SUBDIVISION – BEMAC PARTNERS AND VAUGHN & MELTON CONSULTING ENGINEERS – TERRY ROAD WEST OF GUESS ROAD

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments on initial zoning Case P03-65 (Highland Park Subdivision); and

April 19, 2004

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD;E-B, zoning for the property described in the attached staff report was approved at 10:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MATTER P03-69 – CM HERNDON PARK - CITY OF DURHAM – SCOTT KING ROAD, WEST OF HERNDON ROAD

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on initial zoning Case P03-69 (CM Herndon Park); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B, zoning for the property described in the attached staff report was approved at 10:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE (P03-76) – THE PARK AT SOUTHPOINT – REVEILLE, LLC – NORTHEAST QUADRANT OF THE I-40/NC 751 INTERCHANGE - [PUBLIC HEARING POSTPONED FROM MARCH 1, 2004 MEETING]

To receive public comments on rezoning Case P03-76 (The Park at Southpoint); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-76 out of GC(D), OI-2(D) and RM-8(D) and placing same in and establishing same as GC(D), OI-2(D) and RM-8(D), Change in Development Plan.

Planning Department: No recommendation. No technical issues are raised by the rezoning. This decision is purely a policy decision.

Zoning Committee Recommendation and Vote: Approval – (5-2)

City/County Planning Director Frank Duke briefed Council on the staff report. He noted this is a request from the applicant modifying three of the committed elements that were shown approved on the development plan: [1) Substitution of the 50' tree coverage area

April 19, 2004

along the frontage of NC 751 with a 50' wide landscape treatment area along the highway frontage which the applicant has provided conceptual drawings of the proposed landscape area; 2) Elimination of one acre of open space designed with the RM-8(D) area and the total required open space on the entire site will not change; and 3) elimination of the phasing requirement that a portion of the residential components be built simultaneously with the first auto dealership.

Mr. Duke made comments on the tree cover analysis noting the number of trees under the tree coverage area would require a total of 151 trees and total trees under the landscape treatment proposed by the applicant is 99 and the applicant would be adding additional shrubs, flowers, walls and architectural features such as a fountain. He noted there are no opacity and buffer requirements under the ordinance, what the applicant was providing would result in 40% opacity during the summer months, and the tree coverage area will result in 90% opacity. He noted staff has no recommendation on this rezoning since there are no technical ordinance issues and the Zoning Committee recommends that Council approve this rezoning with modifications as requested by the applicant.

Mayor Bell opened the public hearing.

Proponents

Attorney Kenneth Spaulding, representing the applicant, noted the applicant will be increasing the open space from 1 to 3 acres, seeking to modify the phasing requirement because the residential piece is falling behind schedule due to the final decision by the City's engineering department relative to the location of the sewer pump station and the finding by the applicant of a significant rock formation in this particular sector. He noted the Honda dealership is near completion and the applicant is not seeking a height of building change. Regarding the 50' landscape treatment area along NC 751, the applicant will be replacing the area with almost 100 trees and spending more money to improve the appearance along this strip. He noted the developer is asking the City to allow him to spend on beauty and aesthetics approximately \$376,807.28 more than is required by the City ordinance. Attorney Spaulding noted the letter from James Hopp, a registered forestry consultant, addressed the issue of screening and possible problems with following the minimum requirement of the City Ordinance. Also, he urged Council to support this proposal.

George Stanziale, representing the applicant, spoke in support of this item. He made a power point presentation highlighting examples around Durham of minimum standards of the ordinance, pre-development vegetation along 751, previously approved plan 50' buffer; proposed landscape area treatment; proposed NC 751 context; park master landscape plan and mounding vs. proposed treatment.

Opponents

Steve Bocckino, of 7340 Abron Drive, spoke in opposition to this rezoning. He noted small area plans are being changed at the drop of a hat; urged Council to not allow the

April 19, 2004

developer to switch from his promise of an undisturbed buffer; and commented on the broken promises of a mixed-used village and job-training center.

LaVonnia Allison, of 1315 McLaurin, spoke in opposition to this rezoning urging Council to revisit its ordinance and the process.

Council Member Catotti asked the developer about the status of the hotel/office.

George Stanziale, representing the applicant, noted there's nothing under contract, but interests have been expressed.

Council Member Catotti made comments on the auto park view. She noted she can't support this item due to the 40% opacity, the phasing and the changes overtime.

George Stanziale noted there was never a note saying there was going to be an undisturbed buffer as noted by Mr. Bocckino.

For clarification on the undisturbed buffer, City/County Planning Director Frank Duke noted the provision that was shown on the approved development plan defined this as a 50-foot wide tree cover area and with the image from the parkway and 751, the visibility would be allowed under the current plan.

MOTION by Council Member Best seconded by Council Member Clement to extend the applicant's time to five minutes was approved at 11:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Clement and Stith. Noes: Council Member Catotti. Absent: None.

Attorney Kenneth Spaulding read the note on the development plan concerning a 50-foot street yard buffer.

For clarification, Frank Duke noted the street yard buffer is defined as a tree cover area on the adopted development plan.

George Stanziale, representing the applicant, made comments on the tree replacement issue and urged Council to support this proposal.

Council Member Stith asked staff is this a better look than previously proposed.

Frank Duke made comments in support of Mr. Hobbs' letter and noted the landscape proposal before Council today will be superior to the tree cover area.

Council Member Brown expressed concerns with the 40% opacity of the building and visibility of auto park from 751.

George Stanziale noted the applicant will commit to adding large evergreens and additional trees that will screen view coming down 751 from I-40 to the cars of the auto

April 19, 2004

park. Also, he noted the applicant committed to paying \$150,000 towards the pedestrian bridge that will be built over I-40.

Attorney Kenneth Spaulding noted the applicant under this proposal would be spending approximately \$417,431.03 rather than 40,623.75, which is required by the ordinance.

Council Member Clement spoke in support of this proposal.

Council Member Catotti made comments on the size of trees.

Mayor Bell asked why can't you have more trees in the project and commented on the berm.

Mr. Hopp noted you can only put so many trees in a 50' area and expect them to live — the larger the trees the less you can put in there and made comments on the survival rate.

City/County Planning Director Frank Duke noted the applicant did present a modification to the proposal that does provide for some additional vegetation at the entranceway that would increase the opacity.

Council held discussion on the opacity issue.

David Johnson, the applicant, made comments on his customer satisfaction record and noted he is interested in customers, people, in doing something for the community by spending \$400,000 extra to get something done.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments on rezoning Case P03-76 (The Park at Southpoint); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-76 out of GC(D), OI-2(D) and RM-8(D) and placing same in and establishing same as GC(D), OI-2(D) and RM-8(D), Change in Development Plan [landscaping to be developed generally consistent with the landscape plan which is included in the report as modified by the drawings offered by the developer] was approved at 11:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Clement and Stith. Noes: Council Member Catotti. Absent: None.

April 19, 2004

There being no further business to come before the City Council, the meeting was adjourned at 11:55 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk